



March 8, 2011

Richard H. Adler
Chairman, Executive Board
Brain Injury Association of Washington
401 Broadway
Patricia Steel Bldg., 4th Floor
Seattle, WA 98122

Dear Richard:

Thank you for contacting me concerning our view on the changes with risk exposure prior to and following Washington State's enactment of the Zackery Lystedt Law. Before I address this, allow me to provide some background information for the reader of this opinion letter.

Following a 30 year career in public education where I served as high school math and physics teacher, head football coach, assistant wrestling coach, athletic director, vice principal, principal and 13 years as superintendent, I became a risk manager for Canfield & Associates in 1996. Currently known as Canfield, we are a third party administrator for several self-insurance pools two of which cover approximately 200 of the 296 public schools in Washington State. One of our other pools covers private schools in Washington and another pool provides services to public schools in Oregon.

Prior to the passage of the Lystedt Law, which covers concussions in Washington youth sports, our insurance pools had losses due to deaths of athletes, expenses due to subdural operations and other sport related injury losses.

The Lystedt Law was passed in May 2009 and implemented beginning the 2009-2010 school year. Three stories summarize the paradigm shifting attitudes among coaches and the loss/claims reduction in our pools.

During the summer prior to the first football season where the Lystedt Law was implemented, I was presenting a workshop on liability issues and concussion management to a football coaches retreat near Spokane, Washington. About 45 minutes into the second of three sessions, the whole demeanor of the audience changed. It was like a heavy cloud had been lifted from over the attendees. After a couple of minutes, one of the coaches stopped me and said, "Dick does this mean we can coach again? Do you mean I don't have to be a doctor?" I affirmed the Lystedt Law changed the decision-making surrounding a potentially concussed athlete from a coaching decision to a medical decision. Coaches can now coach and not have to be pseudo doctors. Coaching is what they are trained to do, but being a doctor is outside the scope of their duties. Thus, coaches acting within the scope of the Lystedt Law, "Recognizing signs and symptoms of concussions and when in doubt, holding players out" and getting a written medical return to play authorization, have reduced personal and professional liability exposure for coaches.

Following the first year of the Lystedt Law's implementation, I was addressing approximately 600 coaches at a summer workshop with concussions as the topic of discussion. Immediately following the presentation, a wrestling coach approached me with tears in his eyes. He said, "Dick do you realize the Lystedt Law saved the life of one of my girl wrestlers?" During the state qualifying tournaments in February 2009, the coach removed a girl wrestler from a tournament because he suspected she had suffered a concussion. On the following Monday, the girls' doctor called the coach to let him know that by removing the wrestler from competition, he probably saved her life as another blow to the head probably would have killed her. Again, the Lystedt Law when properly administered, not only saved a life but potentially saved a claim for damages.

For the past five years prior to the Lystedt Law, I had not slept much during the 3rd and 4th weekends of football season because those are the weekends where we have had serious head injury cases in the past. I awaited phone calls from schools or coaches letting me know there was a severe head injury and possible death. In the fall of 2010, I realized when I got up on the 3rd and 4th Mondays of September, there was something different; there were no emergency phone calls concerning head injuries. That lasted the entire season! There were NO subdural hematomas or deaths reported to us during the entire fall sports season.

Many people have asked, "How do we know our liability exposure to our schools and coaches has decreased, due to the passage of concussion legislation?" Washington State has a consistent set of guidelines for players, coaches and parents so we are all referring to the same chapter and page of information when dealing with concussions. We are not applying care standards for concussions, which are inconsistent or inconsistently applied. Coaches have been removed from the role of being doctors and thus their liability exposure has been reduced. Fewer untreated or missed treated concussions result in fewer claims. As the stories relate, yes, the Lystedt Law is working!

Please feel free to use these comments to assist other states and agencies in passing and implementing concussion legislation for youth athletes. If I can be of additional assistance to these entities, either in person or as a reference, please feel free to ask.

Sincerely,



Richard L. Langum
Risk Manager, Canfield

cc: Roger Goodell, NFL Commissioner

Jeff Miller, NFL

Joe Browne, NFL

Stan Herring, MD, Professor of Medicine and Co-Director of Harborview Medical Center/University of Washington Medical's Seattle Sports Concussion Program

Jim Cherf, CEO, Canfield

Shane Heston, Director of Risk Management, Canfield